United Nations S/2003/1027

Security Council

Distr.: General
23 October 2003

Original: English

Letter dated 23 October 2003 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to Security Council resolution 1457 (2003) of 24 January 2003, by which the Council renewed the mandate of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo for a period of six months. The Council requested the Panel to submit to it a final report at the end of its mandate. I also refer to resolution 1499 (2003) of 13 August 2003, by which the Council further extended the mandate of the panel until 31 October 2003.

I have the honour to transmit to you the final report of the Panel, which was submitted to me by its Chairman, Mahmoud Kassem. I should be grateful if you would bring the report to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

03-56736 (E) 241003

Letter dated 15 October 2003 from the Chairman of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo addressed to the Secretary-General

In accordance with the requirements of Security Council resolutions 1457 (2003) of 24 January 2003 and 1499 (2003) of 13 August 2003, the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo is pleased to submit its final report for transmission to the President of the Security Council.

(*Signed*) Mahmoud **Kassem**
Chairman
Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo

Contents

		Paragraphs	Page
I.	Introduction	1–8	4
II.	Reactions to the Panel's last report	9–32	5
III.	Transmission of information for investigations by government authorities	33–37	12
IV.	Information on actions taken by Governments in response to the Panel's previous recommendations	38–42	13
V.	Exploitation, arms flows and conflict	43–47	14
VI.	Next steps	48–66	15
VII.	Impact of the Panel's work and lessons learned	67–76	21
Annexes			
I.	Resolution overview		1
II.	Countries visited and representatives of Governments, organizations and private entities interviewed		10

I. Introduction

1. On 24 January 2003, the Security Council adopted its resolution 1457 (2003) renewing the mandate of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo. Under that six-month mandate, the Panel was requested to verify, reinforce and update its earlier findings and, as necessary, revise the annexes attached to its previous report (S/2002/1146, annex) of 16 October 2002. In that regard, the Panel was asked to pursue a dialogue with individuals, companies and States referred to in the report, exchange information with those parties, assess actions taken by them and compile their reactions for publication as an attachment to the report. The resolution emphasized the need for Member States to take investigative action regarding the Panel's findings and called on the Panel to transmit, upon request, relevant information and documentation to Governments. In addition, the Panel was required to provide information on actions taken by Governments in response to the Panel's previous recommendations. The Panel was also mandated to develop recommendations on measures that the Transitional Government of the Democratic Republic of the Congo and other Governments in the region could take in order to ensure that the resources of the Democratic Republic of the Congo are exploited legally and fairly for the benefit of the Congolese people.

2. The Panel reconvened for consultations in New York on 3 March 2003 and proceeded to its offices in Nairobi on 24 March 2003, where it immediately established a dialogue with the parties named in its last report. After several months of intensive meetings, held in Nairobi and Paris, 58 reactions were received for transmission to the Secretary-General and publication as an attachment to its report (S/2002/1146/Add.1, enclosure 2) on 20 June 2003.

3. At the request of the head of the Security Council's mission to Central Africa, Ambassador Jean-Marc de la Sablière of France, the Chairman and two members travelled to Pretoria on 9 June to brief the mission on the Panel's perspective on recent developments in the Democratic Republic of the Congo. On 24 July, the Chairman of the Panel presented an interim briefing to the Security Council in New York.

4. On 13 August, the Security Council adopted its resolution 1499 (2003) extending the Panel's mandate until 31 October 2003. In that resolution, the Council provided the Panel with additional tasks and referred, inter alia, to how the Panel's work has heightened awareness of the illegal exploitation of natural resources and other forms of wealth of the Democratic Republic of the Congo in the context of conflict and, in particular, its connection with the illicit trade of small arms and light weapons.

5. As resolution 1457 (2003) sets forth, the Panel is not a judicial body. It has operated under a "reasonable standard" of proof and obtains information, including documentation, entirely on a voluntary basis from a variety of sources. The Panel draws on its experience in the region and expertise to evaluate information collected in an objective and fair manner.

6. During the course of its work, the Panel has closely followed the evolution of the peace process in the Democratic Republic of the Congo. The Lusaka Ceasefire Agreement of 1999 (S/1999/815, annex) has served as an important point of reference. The Global and All-Inclusive Agreement on the Transition in the

Democratic Republic of the Congo, signed on 17 December 2002, and other subsequent and intervening peace agreements have also informed the Panel's work.

7. The Panel was composed as follows:

- Ambassador Mahmoud Kassem (Egypt), Chairman
- Mr. Andrew Danino (United Kingdom of Great Britain and Northern Ireland)
- Mr. Alf Görsjö (Sweden)
- Mr. Mel Holt (United States of America)
- Mr. Bruno Schiemsky (Belgium)
- Mr. Ismaila Seck (Senegal).

8. Two part-time technical advisers, Mr. Christian Dietrich (United States of America) and Mr. Patrick Smith (United Kingdom of Great Britain and Northern Ireland), also served with the Panel. In addition, three political officers, an administrator, an archivist, a secretary and a security officer assisted the Panel.

II. Reactions to the Panel's last report

9. As Council members are aware, the publication of the annexes in the Panel's last report (S/2002/1146) created strong reactions by entities named therein. The annexes brought together two groups of companies and individuals. First, annexes I and II comprised individuals and companies that were involved in natural resource exploitation in a way which could be linked directly with funding the conflict and the resulting humanitarian and economic disaster in the Democratic Republic of the Congo. Many of the parties were either members of one of the elite networks described in the Panel's last report or enjoyed close business relations with them. Even where business activities involved the payment of taxes to rebel administrations and therefore might seem to be legitimate, none of those funds were used to benefit the communities in which mineral exploitation was occurring. Instead the taxes went to fund the elite network's military activities. Secondly, there were those parties that, while having only indirect commercial ties to the Democratic Republic of the Congo, still bore a responsibility to ensure that those links did not, albeit inadvertently, contribute to funding and perpetuating the conflict. They comprise annex III of that report.

10. A specific example is that of the export of the mineral columbo tantalite (coltan), from which the metal tantalum is extracted. Tantalum is used, inter alia, in the production of electronic components. In 1999 and 2000 a sharp increase in the world prices of tantalum occurred, leading to a large increase in coltan production in eastern Democratic Republic of the Congo. Part of that new production involved rebel groups and unscrupulous business people forcing farmers and their families to leave their agricultural land, or chasing people off land where coltan was found and forcing them to work in artisanal mines. As a result, the widespread destruction of agriculture and devastating social effects occurred, which in a number of instances were akin to slavery. While the processors of coltan and other Congolese minerals in Asia, Europe and North America may not have been aware of what was happening in the Democratic Republic of the Congo, the Panel's investigations uncovered such serious concerns that it was decided to raise the awareness of the international

business community to those issues through annex III in the context of the OECD (Organisation for Economic Cooperation and Development) Guidelines for Multinational Enterprises. The purpose was to bring to the attention of the companies listed in annex III their responsibilities vis-à-vis the source of their raw materials.

11. The publication of the Panel's report in October 2002 also raised a great deal of interest in the media and among observers of the situation in the Democratic Republic of the Congo and the Great Lakes region. The international business community in particular acknowledged that companies could not avoid their responsibilities in a country suffering from conflict, such as the Democratic Republic of the Congo. Investors and financiers took a keen interest in the activities of corporations in the Democratic Republic of the Congo, with which they were dealing. Companies themselves commented that their responsibilities extended further than they had previously acknowledged. Supply chains for raw materials, in particular, came into sharp focus and prompted some of those named to reassess their activities in the Democratic Republic of the Congo.

12. It is also important to note the significant difference between those companies and individuals listed in annexes I and II to the Panel's last report and companies listed in annex III. Annexes I and II list companies and individuals about which the Panel had information indicating that their commercial activities in the Democratic Republic of the Congo had contributed, either directly or indirectly, to funding conflicts, especially in the eastern and northeastern Democratic Republic of the Congo. Companies listed in annex III, however, were included because of apparent breaches of the OECD Guidelines for Multinational Enterprises, a non-compulsory code of business ethics. It was also a means of characterizing their involvement in exploitation activities that were less directly linked to conflict and therefore involved more indirect ties to the main protagonists. Such companies appear to have benefited from the chaotic environment in the Democratic Republic of the Congo through, for example, the acquisition of concessions or other contracts from the Government of the Democratic Republic of the Congo on terms that were more favourable than they might have received in countries where there was peace and stability.

13. In discussing the work that the Panel has undertaken in respect of the companies and individuals named in the annexes to its October 2002 report, it is noteworthy that a total of 157 parties were involved. Of those, reactions from 119 were received, representing three quarters of the total. Meeting those parties was a major logistical and time-consuming undertaking, especially in view of the limited time of the Panel's mandate, its small size and the complex nature of the issues involving a number of the parties. In the interest of due process, each party was allocated as much time as was necessary to ensure that the dialogue with the Panel covered in detail all the issues involved, thereby maximizing the possibility of achieving a resolution satisfactory to both sides. When necessary, follow-up meetings were held.

14. Prior to starting its substantive work, the Panel sought guidance from the Office of Legal Affairs of the Secretariat on handling reactions and responses from individuals and entities. The Office subsequently issued a note that guided the Panel in all its exchanges with such parties. One of the key issues on which the Office provided guidance to the Panel was the release of information to companies and

individuals, as required by paragraph 12 of resolution 1457 (2003). It recommended that information and documents could be handed over provided that such release did not place at risk the safety of Panel members, its staff or its sources, did not violate a duty of confidentiality owed to a source or did not compromise the Panel's internal decision-making. Accordingly, the Panel was very careful to take full account of the security of its sources and the issue of confidentiality when it was selecting what information and documents it could release. In following the principle of due process, the Panel strove to provide as much information as possible to parties in discussions and communications with them.

Standard of proof

15. The Panel is an independent fact-finding body established by the Security Council, which reports and provides recommendations to it. As the Panel has no judicial recourse, it can only gather information from voluntary sources. Over the course of the last three years, it has established an extensive network of information sources both in the Great Lakes Region and in countries with links to the Democratic Republic of the Congo. It does not have the legal powers available to a Government, for example, in a criminal or civil investigation. Consequently, when assessing whether the behaviour of an individual or company was inappropriate and therefore warranted inclusion in the annexes, a standard of proof based on "reasonableness" or "sufficient cause" was applied. In essence, for any particular party the Panel has acquired information indicating that, prima facie, a party has been engaged in conduct related to business dealings linked to the Democratic Republic of the Congo, either directly or indirectly, that do not meet generally accepted international standards of corporate behaviour or governance. The Panel used its judgement in assessing the importance and relevance of that information to come to considered views and opinions. In the case of the companies listed in annex III, the Panel has used the principles of the OECD Guidelines for Multinational Enterprises as appropriate benchmarks.

16. The information acquired by the Panel during its mandates has taken various forms, but has mainly comprised documents, the results of interviews with interested parties including non-governmental organizations (NGOs) and other civil society representatives and sources within companies, Governments, political organizations and militia groups. While on occasion information on a particular party has clearly implicated it in improper behaviour that may well be illegal, in most instances it is indicative of such behaviour or a breach of international norms of corporate governance and business ethics. The nature of the Panel and the various mandates that it has been given preclude it from determining the guilt or innocence of parties that have business dealings linked to the Democratic Republic of the Congo. Accordingly, the Panel has restricted itself to the narrower issue of identifying parties where it has information indicating a prima facie case to answer.

Dialogue with the parties

17. At the start of its mandate the Panel contacted those parties listed in the annexes to its October 2002 report from which reactions had been received, inviting them to meet with it. In addition, the Panel issued a press release explaining its new mandate and inviting reactions from all parties for publication as an addendum to the report. As a result of the press release there was a large increase in the number

of parties contacting the Panel, bringing the overall total to more than a majority of those listed in the annexes.

18. To facilitate the most efficient use of its limited time, the Panel first invited parties to meet with it in Nairobi, starting in April, and then Paris in May. During those meetings with companies and their owners or managers and directors, the Panel explained that the purpose of any dialogue was to achieve a mutually satisfactory resolution and to look forward instead of focusing on the past. It was made clear that the Panel was not a judicial body, but a fact-finding one, set up by, and reporting directly to, the Security Council. The Panel also explained to parties that the purpose was to raise the standard of corporate behaviour and governance in conflict areas in the Democratic Republic of the Congo and that foreign companies in particular could play a major role by operating in accordance with the same corporate norms that they would follow in their home countries or elsewhere in the world. Moreover, the links between their business dealings, whether direct or indirect, in fuelling conflict in the Democratic Republic of the Congo were explained and the consequent responsibility that the corporate sector had was stressed. The Panel drew the attention of companies to the disastrous situation in the Democratic Republic of the Congo and the human tragedy occurring in conflict areas. The link between business activities in those areas and the continuation of hostilities was highlighted. With respect to annex III companies, the Panel discussed the need for a fairer, more transparent exploitation of the natural resources of the Democratic Republic of the Congo, which they could help foster. During meetings with many individuals and company representatives, a large number of them expressed their appreciation of the role the Panel had played in raising their awareness of the conflict in the Democratic Republic of the Congo and the responsibilities that companies have when operating in such an environment.

19. Subsequent to those meetings, a total of 58 reactions from companies and individuals were submitted for publication in accordance with resolution 1457 (2003) and the note by the President of the Security Council of 24 March 2003 (S/2003/340). Fifty-four of those reactions were from individuals and corporate entities, while four were received from Governments. They were published in an addendum to the October 2002 report (S/2002/1146/Add.1).

OECD liaison and cooperation

20. Shortly after the Panel reconvened in March, it re-established contact with the OECD Committee on International Investment and Multinational Enterprises (CIME), which is responsible for monitoring compliance with the OECD Guidelines for Multinational Enterprises. CIME is made up of representatives (or National Contact Points (NCPs)) of the 34 countries subscribing to the Guidelines. The Panel was invited to a meeting of CIME in Paris in April, at which there was a round table to discuss the Panel's 2002 report and, more specifically, the applicability of the Guidelines to the developing world and conflict-ridden countries or regions.

21. Following a very constructive dialogue, there was general agreement that the OECD Guidelines for Multinational Enterprises should be applicable across the world, from the most industrialized countries to the least developed. Prior to the Panel's contact with OECD, only one case in Africa had been referred to an NCP. One participant said that the round table would be seen as a wake-up call for CIME and NCPs. Moreover, the positive or negative role that multinational enterprises can

play when they invest in countries or regions that are in a state of war or conflict was well appreciated. Subsequent to the Paris meeting, the Panel and the Chairman of CIME developed a modus operandi, whereby the Panel would pass over to NCPs information (subject to protecting the security of its sources) on companies incorporated in their jurisdictions.

Results of dialogue and work with parties

22. The overarching goal of the dialogue was to achieve a resolution of the issues that led to parties being listed so that they can be removed from the annexes. What constitutes resolution is set out below. As the Panel has reached the end of its mandate, it was important to ensure that there are no unresolved cases left in its files. In those cases where resolution has not been possible, either because of a lack of time or because an agreement could not be reached despite strenuous efforts by the Panel, they have been referred to Governments of the countries under whose jurisdiction they fall for follow-up. It should be noted that the countries indicated alongside the names of companies in annexes I and III do not necessarily refer to their country of incorporation. In some instances, the countries shown refer to where companies active in the Democratic Republic of the Congo operated from, which might have been different from the countries of their parent companies. In presenting the results of its work, the Panel has put the parties listed in the annexes into five categories according to the results of its dialogue. Category I comprises those parties that have been resolved. Categories II, III and IV list those parties that have been referred to OECD National Contact Points or Governments for monitoring or follow-up. Category V encompasses those parties that did not react to the Panel's report despite having had the opportunity to do so. The following paragraphs describe in detail how the categories were compiled.

Category I — Resolved

23. In working with companies and individuals to update its findings and, if at all possible, to find a solution to the issues that led to their being listed in the October 2002 report, the Panel entered into in-depth discussions that involved, inter alia, the exchange of both information and views. During those discussions and the related communications, it became clear that each case had to be considered on its own merits. As a result, what constituted resolution varied widely, according to the particular features of each situation. It should be noted that resolution should be seen in the context of a win-win outcome both for the parties involved and the Democratic Republic of the Congo, in terms of a reduction in the conditions or environment that have fostered the illegal exploitation of natural resources. In all, the dialogue with 61 of the 119 parties that reacted to the Panel's report resulted in a resolution whereby there are no outstanding issues. Consequently, the parties listed in category I may be viewed as having been removed from the annexes. Annex I to the present report contains that list. It should be stressed that resolution should not be seen as invalidating the Panel's earlier findings with regard to the activities of those actors. Rather, it signifies that there are no current outstanding issues, the original issues that led to their being listed in the annexes having been worked out to the satisfaction of both the Panel and the companies and individuals concerned.

24. While not prescriptive, the following are the main types of resolution that were achieved. The most straightforward and clear-cut is where a party acknowledges that the issue cited by the Panel entails instances of business behaviour that are

inappropriate. They have either taken action to remedy them or given firm, time-bound commitments to do so. Particular examples of that were seen with companies buying minerals from the Democratic Republic of the Congo that acknowledged that their controls or scrutiny over the origin of those minerals had been weak and might have resulted in their purchasing them from conflict areas, thereby funding the conflict, albeit often inadvertently. In the case of banks listed by the Panel, there were instances where the Panel brought to their attention accounts that had been opened by individuals or companies that had been implicated in illegal activities. The banks concerned subsequently closed those accounts and thanked the Panel for having brought the matters to their attention. In addition, they pledged to tighten up their customer account opening procedures.

25. There are also companies with tangential or indirect links to the Democratic Republic of the Congo. They do not trade directly with the Democratic Republic of the Congo, but are at least one step removed. They include, for example, companies providing analytical services to mineral exporters or companies buying finished tantalum powder produced from raw materials that may have come from the Democratic Republic of the Congo, but which were processed outside the country. The Panel's dialogue with such companies raised their awareness about operating in areas of conflict and how they can be a force for the fair and transparent exploitation of natural resources by dealing with reputable companies only.

26. Another clear-cut type of resolution is where a company has ceased operations in the Democratic Republic of the Congo or transactions with Congolese parties. Examples of that included a number of diamond importers in Europe and North America. They ceased doing business with Congolese companies that could not meet international standards of business ethics, specifically in ensuring that conflict or blood diamonds were not involved in their commercial transactions. Moreover, there were instances of individuals named in annex II ceasing to hold positions or engage in business transactions that led to their being listed.

27. Improving the transparency in the way companies operate in the Democratic Republic of the Congo and in business transactions with the Democratic Republic of the Congo was another form of resolution. In such cases, the Panel was able to show the companies concerned that their behaviour was widely perceived to be suspect. That was particularly evident in projects involving the granting of mineral concessions and the further processing of waste materials, especially piles containing cobalt and copper, where there was widespread debate over the terms. Often those terms appeared particularly generous for the foreign investors involved and at prices below what might have been obtained had different methods been followed to market the opportunity more widely. In discussions with the Panel, such foreign investors often admitted that they had been less than effective in explaining the benefits of the project to their Congolese partners and the Congolese State and the financial risks that they had taken. There were also instances where foreign mining firms hired former politicians and government officials with reputations of being corrupt to assist them in gaining the necessary licences and regulatory approvals. They subsequently cancelled those consultancy contracts when they became aware of the damage such people could do to their firms' reputations.

28. Also included in that category are those companies that have operated in the Democratic Republic of the Congo for many years, at least since before the outbreak of the current conflict in 1998. Since they had been operating in areas that until

recently had been controlled by rebel or opposition groups, their activities may have appeared to be illegal or illicit. As a result of their dialogue with the Panel, however, it became apparent that their business practices could be viewed as acceptable in that they make positive contributions to their communities in providing goods and services, as well as jobs for local people. Specifically, the Panel was able to establish that they run their businesses in a responsible manner and have not directly funded activities contributing to conflict.

Category II — Provisional resolution

29. Category II comprises companies, together with their owners or proprietors, that have reached provisional resolutions with the Panel that are dependent on the companies fulfilling commitments on corporate governance that will only occur after the end of the Panel's mandate. All the matters of substance have been resolved. It is only a matter of going forward with improved controls and procedures that is required. As a result, the Panel has asked the NCPs responsible for implementation of the OECD Guidelines for Multinational Enterprises in the countries concerned to monitor compliance. A total of eight parties comprising two business groupings have been referred to NCPs in Belgium and the United Kingdom (see annex I to the present report).

Category III — Referred for updating or further investigation

30. Category III comprises companies, together with their owners or proprietors, which have been referred to NCPs for updating or further investigation. They are cases where the Panel has been unable to achieve resolution for one of several reasons. The most frequent reason is that the company concerned has rejected the Panel's contention that there are issues that need to be addressed relating to its activities in or with the Democratic Republic of the Congo. For example, a company has refused to accept that it has a responsibility to do what it can to avoid providing support, even inadvertently, to rebel groups in conflict areas where it may be operating or have business interests. The category also includes companies that do not appear to have met their own self-imposed best practice principles. Given that the OECD Guidelines are codes of good business ethics, the Panel believes it is important for such apparent failures or lapses to be investigated further. In addition, there are companies that are involved in legal actions the outcome of which is very unlikely to be known before the end of the Panel's mandate. During such legal processes, information may come into the public domain that may be relevant to an assessment of the concerned companies' involvement with the Democratic Republic of the Congo. Consequently, the open files have been referred to the NCPs of the countries where they are incorporated. A total of 13 dossiers, covering 18 companies, have been referred to the OECD NCPs in Belgium, Germany and the United Kingdom (see annex I to the present report).

Category IV — Referred for further investigation

31. Category IV comprises companies and individuals that have been referred to Governments for further investigation or about which Governments have asked the Panel for information so that they can conduct their own enquiries. As well as referring companies to Governments for reasons similar to category III companies, there were also instances where it was not logistically possible to meet some companies based in countries far from both Kenya and France. As a result, the Panel

has asked their Governments to carry out enquiries (see annex I to the present report).

Category V — Parties that did not react to the Panel's report

32. Finally, there are those parties that have not sent reactions to or contacted the Panel. Those 38 parties represent almost a quarter of the total parties listed in annexes I, II and III of the Panel's previous report. While they had adequate time to make contact and meet with the Panel, they chose not to, as is their right. Accordingly, the Panel is not commenting on those parties other than to list them in category V (see annex I to the present report).

III. Transmission of information for investigations by government authorities

33. Paragraphs 12 and 15 of resolution 1457 (2003) requested that the Panel establish a dialogue, inter alia, with States mentioned in its report and urged all States to conduct their own investigations in order to clarify the findings of the Panel. In paragraph 16 of the same resolution, the Security Council noted with satisfaction that the Prosecutor General of the Democratic Republic of the Congo had begun a preliminary inquiry into the Panel's findings and that the former Government of the Democratic Republic of the Congo had decided to suspend momentarily the officials named in the Panel's reports pending further inquiry. The Council also requested the Panel to cooperate fully with the Office of the Prosecutor General and provide information to the Office that may be needed for conducting an investigation. In paragraph 17, the Council also noted with satisfaction the decision by the Ugandan Government to establish a Judicial Commission of Inquiry. In the same paragraph, the Council again urged all States, in particular Zimbabwe and Rwanda, to cooperate fully with the Panel and investigate further the Panel's findings.

Democratic Republic of the Congo

34. During November 2002, following the publication of its report (see S/2002/1146), the Expert Panel met with the Prosecutor General of the Democratic Republic of the Congo at Headquarters. Following those meetings, the Panel transmitted information on investigative leads to be used in a preliminary inquiry that had been opened into the report's findings. After reconvening on 3 March 2003, the Panel maintained regular contacts with the Office of the Prosecutor General, until the swearing-in of a new Prosecutor General in June. During its visit to Kinshasa, the Panel met on 3 September with the new Prosecutor General and discussed what type of cooperation was needed from the Panel, in light of the fact that the preliminary inquiry launched last year into the Panel's findings had been completed and a report submitted to President Joseph Kabila on 20 March. In a follow-up telephone conversation during the week of 17 September, the Prosecutor General informed the Panel that his Office would consider requesting additional information and documentation in light of the decision to be taken by the Parliament on the question of establishing a commission to review and revise all concessions and contracts signed since 1997. That was recommended in the Panel's last two

reports. The Prosecutor General also informed the Panel that his Office would await the publication of the Panel's final report before making its final decision.

Rwanda

35. During a visit to Kigali, the Panel provided the Deputy Prosecutor General of Rwanda, on 16 September 2003, with documents on economic exploitation in the Democratic Republic of the Congo and additional links to Rwanda, the Rwandan Patriotic Army or individual Rwandan military personnel. Those issues were further discussed during follow-up meetings with the Rwandan Minister for Foreign Affairs and with the Special Envoy of President Kagame for the Great Lakes, on 17 September.

Zimbabwe

36. In May and June 2003 the Government of Zimbabwe forwarded to the Panel the responses of three Zimbabwean individuals named in its October 2002 report. As the Panel considered that a number of outstanding issues remained, it provided information and documentation to Zimbabwean authorities to enable them to examine the Panel's findings and take the appropriate corrective action.

National Contact Points

37. As mentioned earlier, the Expert Panel also provided National Contact Points of Belgium, Germany and the United Kingdom, with all available information and documentation on a number of individuals and companies under their jurisdiction, which were named in the Panel's last report. The cases of those individuals and companies, which are listed in categories II and III of annex I to the present report, require additional monitoring or updating.

IV. Information on actions taken by Governments in response to the Panel's previous recommendations

38. In fulfilment of paragraph 9 of resolution 1457 (2003), the Expert Panel was requested by the Security Council to include in its report, inter alia, information on actions taken by Governments in response to the Panel's previous recommendations, including information on how capacity-building and reforms in the region are affecting exploitation activities.

39. The Panel identified 12 States in the region through which goods originating in the Democratic Republic of the Congo may be passing. They include Burundi, Rwanda, Uganda and Zimbabwe as well as other regional States, such as Angola, the Central African Republic, Kenya, Mozambique, the Congo, Tanzania and Zambia.

40. The Panel submitted questions to all 12 countries and enquired, in particular, about measures taken to assist in curbing illegal exploitation of natural resources of the Democratic Republic of the Congo, the expected impact of those measures and confidence-building measures to be recommended to ensure that resources of the Democratic Republic of the Congo are exploited legally. Of those 12 countries, only Rwanda, Uganda, Zambia and Zimbabwe responded.

41. Uganda indicated that the establishment of the Porter Commission and Uganda's positive role and participation in the peace process in the Great Lakes region constituted the most significant step that that country had taken towards curbing illegal exploitation in the Democratic Republic of the Congo. Rwanda underlined that the withdrawal of its forces from the Democratic Republic of the Congo may be considered as its most significant step, but declined to volunteer recommendations, as it has neither the mandate nor the expertise to do so. Zimbabwe noted that it was "in no position to take any measures . . . as neither itself nor its nationals were or are involved in any illegal deals in the Democratic Republic of the Congo". As for Zambia, no additional significant measures over and above the existing administrative and security border controls have been taken.

42. In terms of confidence and capacity-building measures, Uganda underscored the need to enhance conflict resolution in the region and re-establish effective government institutions, in particular effective control of trade and revenue, in the Democratic Republic of the Congo.

V. Exploitation, arms flow and conflict

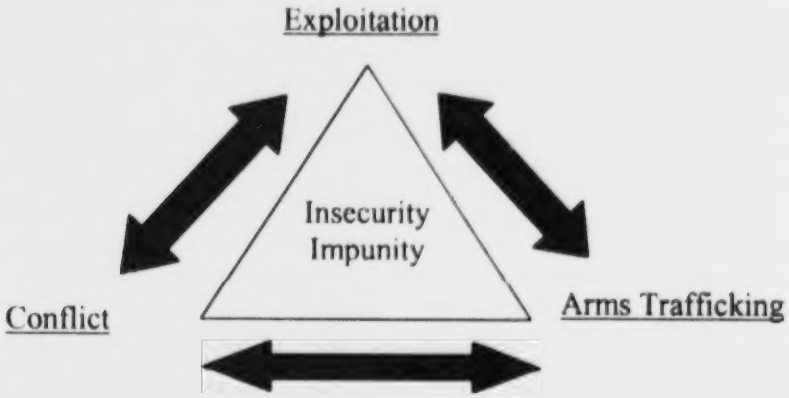
43. Since the Panel's last report of 16 October 2002, a number of significant developments have taken place in the Democratic Republic of the Congo. Following the withdrawal of foreign forces, the Congolese parties signed in December 2002 the Global and Inclusive Agreement, which provided for the establishment in July 2003 of the Government of National Unity. The new Congolese Parliament convened for the first time on 22 August. At the same time, that period also witnessed intensified fighting in the eastern Democratic Republic of the Congo, notably in the Ituri district.

44. Illegal exploitation remains one of the main sources of funding for groups involved in perpetuating conflict, especially in the eastern and northeastern regions of the Democratic Republic of the Congo. Over the last year, such exploitation has been characterized by intense competition among the various political and military actors as they have sought to maintain, and in some instances expand, their control over territory.

45. In that connection, the power vacuum caused by the withdrawal of the Rwandan Defence Forces (RDF) and later by the Ugandan People's Defence Forces (UPDF), spurred the proliferation of militias. Those militias have vied for control over strategic zones where lucrative resources are located, and which were formerly held by the foreign forces. The Panel is of the opinion that the deteriorating security situation in the eastern Democratic Republic of the Congo, which resulted from intensifying armed confrontations among the militias, has had a direct impact on the level and nature of resource exploitation, compared to previous years. Overall, the transition of control from foreign forces to the armed groups has led to a temporary reduction in the volume of illegally exploited resources.

46. Fact-finding and field inquiries into the actual situation on the ground were hampered by the fighting in the most bitterly contested areas. The Panel, nonetheless, understands, based on information from a variety of sources, that during the current period, much of the resource exploitation has concentrated on gold and diamonds. Those minerals have a high revenue yield per unit weight, are easily transported and can be used in lieu of hard currency in transactions. Sites for

artisanal mining of those precious minerals remain active in many regions: Ituri, other parts of Oriental province, North and South Kivu and Maniema. Combined with moneys raised at customs border posts, political and military actors have been able to fund their military activities, including the supply of arms, as illustrated in the diagram below.



47. The Panel's fact-finding indicates that those relationships, which were analysed in detail in its earlier reports, continue to be as important as ever. In breaking that cycle, it is very difficult to stem or halt illegal exploitation without also tackling the issue of arms trafficking. Accordingly, the focus of the Panel's fieldwork and fact-finding has been on the patterns and trends in arms trafficking and the groups involved, including an analysis of their strategies and plans. The Panel has gathered detailed information and documents showing how those groups have been, and are adjusting to recent political developments, especially the establishment of the Government of National Unity. It is clear that they are developing strategies to build and extend their political and economic control in various parts of the Democratic Republic of the Congo, in particular the east and north-east. The details on exploitation and arms trafficking have been made available to the President and members of the Security Council. The Panel's information and documentation could be useful for an arms monitoring mechanism, should the Security Council decide to establish one.

VI. Next steps

48. While it has intensified during the recent conflict in the Democratic Republic of the Congo, the exploitation of natural resources that does not benefit the majority of the Congolese people is not a new phenomenon. It did not start with the establishment of the Panel three years ago, nor will it end with the conclusion of its mandate. In the absence of a strong, central and democratically elected Government that is in control of its territory, illegal exploitation will continue and serve as the motivation and the fuel for continued conflicts in the region, to the detriment of the Congolese people, who have suffered too much for too long.

49. The establishment of a transitional Government and institutions in the Democratic Republic of the Congo is a significant step in the right direction.

However, and for the reasons highlighted above, the process is not yet irreversible. Major obstacles will continue to be faced as the country moves from a state of conflict and division, to that of reunification, peace, security and economic recovery. There should be no illusion that the Congolese people will be able to carry out that colossal task on their own. Without the active engagement of the international community, the chances of success will be minimal. The international community has already demonstrated its political resolve and commitment with the adoption of resolution 1493 (2003) of 28 July 2003, which strengthened the mandate of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), as well as with the rapid deployment of the Interim Emergency Multinational Force to Bunia last June. However, the time has now come for the international community to demonstrate the same commitment by providing in a coordinated manner urgently needed technical and financial assistance in support of the transitional process. The Panel has consistently highlighted the need in its earlier reports for a strengthened national capacity to assume control and regulate the exploitation of the natural resources in the Democratic Republic of the Congo. Now is the time to pursue that objective.

50. Ensuring that a Central Government is in control of its natural resources for the benefit of the population will be a complex process with different phases. One of the most significant challenges is enabling the timely extension of the transitional authority throughout the national territory, in particular in such problematic areas as Ituri and the Kivus. The transitional Government, with the assistance of the international community, should consider that a high priority. Where possible, bringing the existing administrative structures in former rebel-held areas back under the management of the central authorities of the Government of National Unity could be a starting point. The extension of government authority should also be accompanied by a reform of the rule of law sector and the re-establishment of a criminal justice capacity in all its components: police, judiciary and corrections. MONUC and the international assistance will be vital in that regard, inter alia, by providing technical assistance in the reform of the legislative instruments, including the penal system and the penal procedure codes, with a view to tailoring those instruments to the needs of courts that function effectively and in harmony with the international legal instruments to which the Democratic Republic of the Congo is party. Material support will also be required for the training of a national integrated police force and the rehabilitation of criminal justice facilities.

51. The most important factor in ensuring the reunification of the national territory will be the effective integration of the new armed forces. While the transitional partners have reached agreement on the command structure of those forces, its actual integration has yet to take place. In addition to the will of the parties, which, as demonstrated earlier, continues to be lacking, the success of that exercise will also require a national strategy for the armed forces that determines the size and structure of the forces as well as the national military headquarters to take effective control over all armed militias in order to create the new integrated forces. Again, the support of the international community will be vital for the training of the new forces as well as in the effective and timely demobilization and reintegration of the excess personnel.

52. Parallel to the extension of government authority, there are a number of institutional reforms that have to be initiated immediately in order to allow the democratically elected Central Government — once in place — to ensure the legal

exploitation of natural resources in the Democratic Republic of the Congo. They include the following recommendations:

- Effective control of the national borders is a prerequisite if the flow of illegally extracted natural resources and arms is to be stemmed. While the unified national army and police will have a major role in that regard, an effective customs administration can bring many benefits, including higher tax revenues and a reduction in smuggling. A comprehensive diagnostic review should therefore be undertaken of the customs service (Office des douanes et accises) in the Democratic Republic of the Congo, preferably with the assistance of recognized international consultants. Following that review, a comprehensive strategy, covering the medium-term, to upgrade the agency should be developed and implemented. Such a strategy would address training, equipment and, in particular, sound management issues

- The Democratic Republic of the Congo has traditionally been plagued with, at best, an inefficient accounting and auditing system. Strengthening and enlarging the government auditing function, the Cour des comptes, is required so that it has the capacity to undertake regular auditing of all government departments and agencies throughout the country. Auditing of natural resource revenues should also be undertaken by the Cour des comptes with the publication of annual and other more frequent reports. In that regard, accounting systems must be developed for the provinces, especially for conflict areas in the Kivus and Ituri, so that transparency of both revenues and expenditure can be established. Such transparency is necessary to ensure that all provinces receive their fair share of the revenues from national resources, as well as from mineral developments in their areas. Moreover, such disclosure should make local administrations more accountable for the management of public funds. Measures should also be taken to ensure that amounts due to the regional government administrations, including the Entités administratives décentralisées, from the Central Government in Kinshasa are paid on time. Spending that is not in the budget approved by Parliament should immediately come to a halt

- Serious consideration should be given to the break-up of the large State-owned mineral resource enterprises, such as Gecamines and MIBA (Société minière de Bakwanga). Those grossly inefficient entities have traditionally been the vehicles by which the wealth generated from Congolese resources has been channelled away from the rightful owner, the Congolese people. In that connection, the Panel assesses that overhauling and restoring sound management to many of those enterprises will not be cost-effective in view of the enormity of the task and the obstacles that they face. With the assistance of the international community, the Government of the Democratic Republic of the Congo should therefore consider selling off enterprises either as they currently are or in parts that are likely to be of interest to potential investors.

Widening the benefits from natural resource exploitation

53. Disclosure of revenues earned from the natural resource sector is an important step towards transparency in that highly lucrative sector. The "publish what you pay" initiative should be implemented in the Democratic Republic of the Congo. That would involve:

- Natural resource companies, both domestic and foreign, to disclose all the payments that they make to the Government (e.g. concession fees, taxes, fees and royalties)

- The Government to disclose what it has received from those companies and also how the receipts have been used, including amounts paid into the proposed natural resource fund (see below). It will be necessary to develop reporting/disclosure guidelines that are both as comprehensive as possible but at the same time streamlined. Within the Democratic Republic of the Congo, disclosure should not only be at the Central Government level, but also at the provincial level so that amounts accruing to each province/district, in accordance with mining and codes can be tracked. Responsible companies should benefit from a more level playing field in their activities in the Democratic Republic of the Congo

- The World Bank and the International Monetary Fund to consider making the implementation of the "publish what you pay" initiative a condition for further funding to the Democratic Republic of the Congo

- International stock exchanges to consider including in their listing requirements the mandatory disclosure of payments by companies involved in extractive industries in the Democratic Republic of the Congo

- The capacity of civil society should be enhanced through funding, training and partnerships to monitor the collection and expenditure of government revenues from the extractive sector. International donors and NGOs can probably play an important role in building such capacity among Congolese NGOs and associations.

54. One step in ensuring a more equitable distribution of the wealth generated from the exploitation of natural resources could be to establish a natural resources fund into which a portion of natural resource proceeds are paid. The fund would use its revenues in social and economic infrastructure projects, including job creation programmes and diversification initiatives to help regions reduce their dependency on natural resources. The fund should be managed by an autonomous government agency, with international technical assistance and monitoring that would be independent of the established ministries responsible for raising and spending government moneys.

55. Similarly, where a natural resource company operates in an area where local infrastructure is underdeveloped, and where the capacity to build schools and hospitals and other public facilities does not exist, consideration could be given to allowing the company to build such facilities in return for receiving tax credits. That could enable the local community to enjoy more quickly the benefits generated by the company's presence. To avoid abuse, it would be necessary to ensure that such facilities had been sanctioned as necessary and what level of tax credit was appropriate.

56. Large international mining and oil companies have been shown to contribute more to the countries in which they operate than their smaller competitors. In the Democratic Republic of the Congo, the artisanal mining carried out by rebel groups and militias has been particularly bad in the way local communities have been mistreated, land has been stolen for exploitation and environmental damage has been caused. Moreover, many workers have been forced to work in slave-like

conditions. Large mining companies have been shown to be generally much better employers than small or medium-scale mining firms. There may be very sizeable multiple effects in the jobs they can create both directly and in subcontracted firms that supply goods and services.

57. Backward linkages from foreign multinationals to domestic firms are important channels through which direct and indirect employment can be created. Foreign mining and oil companies operating in the Democratic Republic of the Congo should be encouraged to subcontract the provision of as many support services as possible to Congolese companies.

58. The measures outlined above will require substantial and coordinated assistance from the international community. In that connection, donors may wish to consider establishing a donor coordination mechanism that could identify with the Government of National Unity and MONUC the priority needs and allocate the required resources. The coordination mechanism could subsequently monitor the expenditure of those allocations to ensure its most effective use.

Immediate steps

Arms monitoring

59. The Panel realizes that the foregoing measures cannot be fully implemented in the immediate future and will require the sustained efforts over a long period of time of both the Congolese and international stakeholders. Immediate interim measures should therefore be considered to stem the illegal exploitation of natural resources until such time when a strong Government could assume that role. As elaborated earlier in the present report, the flow of arms, exploitation and the continuation of the conflict are inextricably linked. Each of those three elements thrives on the other two. Without the wealth generated by the illegal exploitation of natural resources, arms cannot be bought, hence the conflict, which almost always involves grave human rights abuses and large-scale population displacement, cannot be perpetuated. Without arms, the ability to continue the conflict, thereby creating the conditions for illegal exploitation of resources, cannot be sustained.

60. Breaking that vicious cycle will be key to ending both the conflict and the illegal exploitation of natural resources. Emphasis should therefore be placed on stemming and, if possible, halting the flow of illegal arms to the Democratic Republic of the Congo. That is the weakest element in the cycle, and the area where the international community can play an effective role. The Panel feels that the international community is cognizant of the threat posed by the illegal flow of arms, as demonstrated by the arms embargo imposed on Ituri and the Kivus by the Security Council in its resolution 1493 (2003). In that connection, the Council may wish to consider establishing a monitoring mechanism, as envisaged in paragraph 23 of its resolution.

61. Such a mechanism could complement the role entrusted to MONUC in the monitoring of compliance of the arms embargo by tracking the full scope of the arms flow supply chain, from manufacturer or supplier to the final beneficiary, including the financing of the process through the illegal exploitation of resources of the Democratic Republic of the Congo. The high risk of exposure that such a monitoring mechanism could create would contribute to deterring arms trafficking and curbing arms flows. It would serve to cut the links between exploitation, arms

flows and continued conflict by directing actions at all parties in the chain from manufacturing, brokering, financing and transporting to end-users and training.

62. Such a mechanism would provide a greater degree of mobility, flexibility and adaptability in monitoring the arms embargo compared with today, since having human resources on the ground would complement any air surveillance and interdiction capability. MONUC should have the capacity to make seizures on the ground. Undoubtedly, the success of the proposed monitoring mechanism will depend on close collaboration with MONUC.

Peace dividend

63. If the hearts and minds of the people living in conflict areas in the Democratic Republic of the Congo are to be won over, they will need to be quickly convinced that peace is better than conflict. It is vital to break the dependency link between armed groups carrying out natural resource exploitation and the local communities if their activities are to be brought to an end. Specific quick impact projects need to be undertaken to convince people of the advantages of peace. Hospitals, clinics and schools need to be reopened and local policing re-established. Massive job creation schemes involving the repair of roads, sanitation systems and public buildings should be devised to get adults back into the workforce. Farmers need to be encouraged to return to their fields and start farming again to produce food again. That requires a major reduction in the level of banditry.

64. Given that the population is spread out over large rural areas, projects are required that go down to the village level in conflict areas. They need to be designed to restore basic social services and security rapidly. Specially trained teams of civil servants with local knowledge should be tasked to undertake those projects supported by security personnel, as circumstances dictate.

Regional cooperation and confidence-building measures

65. None of the above recommendations can be sustained in the long term unless a regional solution can be found. The legitimate concerns of all regional actors must be addressed in a comprehensive manner to allow a culture of good neighbourly relations to evolve. The Principles on Good Neighbourly Relations adopted by the parties during the meeting convened in New York by the Secretary-General on 25 September is a step in that direction. In the immediate future, confidence-building measures are needed to take forward those principles. One such measure should tackle the issue of the foreign-armed groups in the Democratic Republic of the Congo from Burundi, Rwanda and Uganda, including the ex-FAR/Interahamwe. Also to be addressed are the status of the Banyamulenge and other ethnic groups, such as the Banyarwandans in North and South Kivu. In dealing with those issues, the Government of National Unity in the Democratic Republic of the Congo will require the cooperation of neighbouring countries and the support of the international community.

66. Regional economic cooperation bodies, especially the Common Market for Eastern and Southern Africa, in which the Democratic Republic of the Congo and its immediate eastern neighbours, Burundi, Rwanda and Uganda, are members, should work to bolster legal trade and investment that benefits all the countries. They should set up working groups to examine in detail how to enhance trade and economic cooperation that will bring win-win results to trading among the four

countries, in particular between the Democratic Republic of the Congo and its neighbours.

VII. Impact of the Panel's work and lessons learned

Impact

67. The work of the Panel was useful because it set a number of precedents. It developed a model that explains the links between illegal exploitation and the funding of armed groups, which have fomented conflict in the Democratic Republic of the Congo, including the arms they purchase. With the information provided by the Panel, the international community was made much more aware of the scale of the crisis in the Democratic Republic of the Congo.

68. The international community now has a deeper understanding of the illicit exploitation of natural resources in the Democratic Republic of the Congo, including the role of companies and business people involved. Moreover, there is an appreciation of the need to assist countries in managing their natural resources for the long-term development and welfare of their populations.

69. The Panel has made a major contribution to the progress of the peace process. That was, for example, evident in its role in encouraging the various actors to participate in the Inter-Congolese Dialogue and prompting the withdrawal of foreign forces, in particular from Ituri and the Kivus.

70. The Panel has breathed life into the OECD Guidelines for Multinational Enterprises and drawn attention to their applicability in developing countries and, especially, in conflict areas. A number of cases have been referred by the Panel to OECD National Contact Points in Belgium, Germany and the United Kingdom.

71. The Panel's work has spurred Governments, NGOs and other organizations or associations to pursue their own investigations into the plundering of resources. That has taken place within the Democratic Republic of the Congo as well as internationally. In Uganda, following his implication in exploitation in the Democratic Republic of the Congo by a government commission, the head of the defence forces, General Kazini, was relieved of his post. In Belgium, a number of diamond dealers have been indicted in connection, inter alia, with their activities in the Democratic Republic of the Congo. In that regard, it is important for the international community to support and strengthen the monitoring capacity of civil society, in the form of NGOs and other groups, so that they can play a greater and more effective role.

72. The enactment of the Forestry Code and the Mining Code benefited from recommendations included in the Panel's reports. Its reports also spurred reform of the diamond sector, including the fact that the Democratic Republic of the Congo has become a member of the Kimberley Process.

73. Consideration is being given in the Democratic Republic of the Congo to the establishment of a government body or commission to review and possibly revise all natural resource concessions and contracts signed since 1997. That was recommended in the last two Panel reports.

Lessons learned

74. There have been several instances of the Panel's sources having to leave the region after being uncovered. Given the sensitive and vital nature of information they can provide, for future panels, some form of a witness protection programme should be established at the outset with the support of the Office of Legal Affairs of the Secretariat.

75. Panels have served as very valuable contributors to the Security Council's work on peace and security issues. There is, nevertheless, a need to analyse and institutionalize and make available, as appropriate, the experiences and lessons learned from the investigations and findings of successive panels mandated by the Council on Afghanistan, Angola, the Democratic Republic of the Congo, Liberia, Sierra Leone and Somalia.

76. To be effective, monitoring activities concerning arms and revenue flows in conflict situations should be institutionalized and cover longer periods. That would require high levels of expertise, flexibility in conducting fieldwork and adequate support of the relevant United Nations bodies and Secretariat.

(*Signed*) Ambassador Mahmoud **Kassem**
Chairman

(*Signed*) Andrew **Danino**

(*Signed*) Alf **Görsjö**

(*Signed*) Mel **Holt**

(*Signed*) Bruno **Schiemsky**

(*Signed*) Ismaila **Seck**

Annex I

Resolution overview

Category I	Resolved — no further action required
Category II	Resolved cases subject to NCP monitoring compliance
Category III	Unresolved cases referred to NCP for updating or investigation
Category IV	Pending cases with Governments for individuals and companies
Category V	Parties that did not react to the Panel's report

CATEGORY I - RESOLVED - NO FURTHER ACTION REQUIRED

No.	Name	Country	Annex	Annex No.	Remarks
1	Pacific Ores Metals and Chemicals Ltd	China Hong Kong	III	66	
2	Ningxia Non-Ferrous Metals Smelter	China	III	62	
3	A & M Minerals and Metals Plc	UK	III	6	
4	Afrimex	UK	III	2	
5	Amalgamated Metal Corporation Plc	UK	III	8	
6	Anglo American Plc	UK	III	10	
7	Barclays Bank	UK	III	18	
8	A Knight International	UK	III	5	
9	Lundin Group	UK Bermuda	III	54	
10	Standard Chartered Bank	UK	III	74	
11	Alex Stewart (Assayers) Ltd	UK	III	7	
12	Eagle Wings Resources Intl Eagle Wings Resources Intl Smerciak Ronald S Trintech International Inc	USA Rwanda USA USA	III I II III	31 9 52 81	
13	Cabot Corporation	USA	III	22	
14	Kemet Electronics Corporation	USA	III	49	
15	Vishay Sprague	Israel USA	III	84	
16	Flashes of Color	USA	III	39	
17	Anthony Marinus	Belgium	II	44	
18	Ahmad Hassan	Belgium	II	5	

No.	Name	Country	Annex	Annex No.	Remarks
19	Banque Belgolaise Fortis	Belgium	III	21 40	
20	Diagem BVBA	Belgium	III	30	
21	Jewel Impex Bvba	Belgium	III	47	
22	Komal Gems NV	Belgium	III	53	
23	Nami Gems	Belgium	III	61	
24	Triple A Diamonds Triple A Diamonds Ahmad Ahmad Ali Ahmad Moussa Ahmad	Belgium	I III II II	27 82 2 6	
25	Umicore Sogem	Belgium	III	83 72	
26	Trademet SA	Belgium	III	79	
27	American Mineral Fields AMFI	Canada	III	9	
28	Banro Corporation	Canada	III	17	
29	First Quantum Minerals	Canada	III	38	
30	Harambee Mining Corporation	Canada	III	42	
31	Kinross Gold Corporation	Canada	III	51	
32	Melkior Resources	Canada	III	57	
33	Tenke Mining Corporation	Canada	III	76	
34	Frédéric Kibassa Maliba	DRC	II	27	
35	OM Group	Finland USA	III	63	
36	Bayer A.G. H C Starck Gmbh & Co KG	Germany	III	19 43	
37	Ashanti	Ghana	III	15	
38	Shmuel Schnitzer (M.Schnitzer & Co)	Israel	2001/1 072	p. 69	
39	Malaysia Smelting Corporation	Malaysia	III	55	
40	Rwanda Allied Partners Manase Simba Omari Hadji Rwigema Alfred	Rwanda DRC Rwanda Rwanda	I II II II	19 30 42 49	

No.	Name	Country	Annex	Annex No.	Remarks
41	Niko Shefer	Israel/ South Africa	II	51	
	Tandan Group	South Africa	I	23	
	Thorntree Industries	Zimbabwe	I	24	
	Thorntree Industries (Pvt) Ltd	Zimbabwe	III	77	
42	ISCOR / Kumba Resources Zincor / Kumba Resources	South Africa	III	46 85	
43	Anglovaal Mining Ltd	South Africa	III	11	
44	Carson Products	South Africa	III	23	
45	Finconcord SA	Switzerland	III	36	
46	IBRYV and Associates LLC	Switzerland	III	44	
47	Dauramanzi Charles	Zimbabwe	II	13	
48	Billy Rautenbach (Ridgepointe Overseas Developments Ltd.)	Zimbabwe	body	32	

CATEGORY II - RESOLVED CASES SUBJECT TO NCP MONITORING COMPLIANCE					
No.	**Name**	**Country**	**Annex**	**Annex No.**	**Remarks**
1	Kababankola Mining Company	Zimbabwe	III	48	
	Tremalt Ltd	UK BVI	I	25	UK NCP
	Tremalt Ltd	UK BVI	III	80	
	Bredenkamp John	UK/ Zimbabwe	II	11	
2	Enterprise General Malta Forrest	Belgium	I	10	
	Enterprise General Malta Forrest	DRC	III	34	Belgium NCP
	Forrest George	Belgium	II	15	
	Groupe George Forrest	Belgium	I	14	
	George Forrest International Afrique	DRC	III	41	

CATEGORY III – UNRESOLVED CASES REFERRED TO NCP FOR UPDATING OR INVESTIGATION					
No.	**Name**	**Country**	**Annex**	**Annex No.**	**Remarks**
1	Avient Air	UK Zimbabwe	III	16	UK NCP
2	Das Air	UK	III	28	UK NCP
3	De Beers	UK	III	29	UK NCP
4	Oryx Natural Resources	UK / Grand Cayman/ Oman	I	18	UK NCP
	Thamer Al-Shanfari	Oman	II	9	
	Arctic Investment Ltd		III	12	
5	Ahmad Diamond Corp	Belgium	I	1	Belgium NCP
	Ahmad Diamond Corp		III	3	
	Imad Ahmad		II	3	
6	Asa Diam	Belgium	I	2	Belgium NCP
	Asa Diam		III	13	
	Asa International		III	14	
	Ali Said Ahmad		II	1	
7	Cogecom	Belgium	III	25	Belgium NCP
8	BBL	Belgium	III	20	Belgium NCP
9	Said Ali Ahmad	Belgium	II	4	Belgium NCP
	Nazem Ahmad		II	7	
	Sierra Gem Diamonds		I	22	
	Sierra Gem Diamonds		III	70	
10	Specialty Metals Company SA	Belgium	III	73	Belgium NCP
11	KHA International AG	Germany	III	50	Germany NCP
	Masingiro Gmbh			56	

CATEGORY IV –
PENDING CASES WITH GOVERNMENTS FOR INDIVIDUALS AND COMPANIES

No.	Name	Country	Annex	Annex No.	Remarks
1	International Panama Resources Corp	Canada	III	45	No complaint. Enquiry by GoC
2	Felicien Ruchacha Bikumu Congo Holding Development Co Kitembo Gertrude Track Star Trading 151 (Pty) Ltd	DRC DRC DRC South Africa	II I II III	47 6 28 78	Case referred to GoDRC
3	La Conmet Piskunov Anatol Piskunova Valentina	DRC Uganda	I II II	7 45 46	Case referred to GoDRC
4	Kongolo Mwenze Mwenze Kongolo	DRC	II	29 38	Case referred to GoDRC
5	Kalume Numbe Denis Numbi Kalume	DRC	II	21 39	Case referred to GoDRC
6	Katumba Mwanke Augustin	DRC	II	23	Case referred to GoDRC
7	Kazadi Nyembwe Didier	DRC	II	24	Case referred to GoDRC
8	Mawapanga Mwana Nanga	DRC	II	31	Case referred to GoDRC
9	Okoto Lolakombe Jean-Charles	DRC	II	41	Case referred to GoDRC
10	Kabasele Tshineu Frederic	DRC	II	20	Dossier prepared. Pending GoDRC decision.
11	Yumba Monga	DRC	II	53	Dossier prepared. Pending GoDRC decision.
12	SLC Germany Gmbh	Germany	III	71	No complaint. Enquiry by GoG
13	Nac Kazatomprom	Kazakhstan	III	60	Case referred to Kazakh Permanent Mission to UN
14	A H Pong & Sons	South Africa	III	4	No complaint. Enquiry by GoRSA
15	African Trading Corporation	South Africa	III	1	No complaint. Enquiry by GoRSA
16	Mercantille CC	South Africa	III	58	No complaint. Enquiry by GoRSA

No.	Name	Country	Annex	Annex No.	Remarks
17	Orion Mining Inc	South Africa	III	65	No complaint. Enquiry by GoRSA
18	Swanepoel	South Africa	III	75	No complaint. Enquiry by GoRSA
19	Saracen Uganda Ltd	South Africa	III	68	Closed - cases investigated by Porter Commission
	Heckie Horn	South Africa	II	17	
	Saracen Uganda Ltd	Uganda	I	21	
20	Major Gen. James Kazini	Uganda	II	25	Closed - case investigated by Porter Commission
21	Lt. Gen. Caleb Akandwanaho a.k.a. Salim Saleh	Uganda	II	50	Closed - case investigated by Porter Commission
22	Col. Burundi Nyamunywanisa	Uganda	II	12	Closed - case investigated by Porter Commission
23	Col. Peter Kerim	Uganda	II	22	Closed - case investigated by Porter Commission
24	Jovial Akandwanaho (wife of Salim Saleh)	Uganda	body	107	Closed - case investigated by Porter Commission
25	Euromet	UK	III	35	No complaint. Enquiry by GoUK
26	Mineraal Afrika Limited	UK	III	59	No complaint. Enquiry by GoUK
27	Emmerson. D. Mnangagwa	Zimbabwe	II	33	Case referred to GoZ
28	Gen. Vitalis. M. G. Zvinavashe	Zimbabwe	II	54	Case referred to GoZ
29	Brig. Gen. Sibusiso Moyo	Zimbabwe	II	35	Case referred to GoZ

CATEGORY V – PARTIES THAT DID NOT REACT TO THE PANEL'S REPORT					
No.	**Name**	**Country**	**Annex**	**Annex No.**	**Remarks**
1	SDV Transintra	France/ Uganda	III	69	
2	C. Steinweg NV	Belgium	III	26	
3	Echogem	Belgium	III	32	
4	Egimex	Belgium	III	33	
5	K & N	Belgium	III	52	
6	Bukavu Aviation Transport Business Air Service Ruprah Sanjivan Okapi Air - Odessa Air Bout Victor	DRC DRC DRC/ Belgium Uganda	I I II I II	3 4 48 16 10	
7	Minerals Business Company	DRC	I	15	
8	Exaco	DRC	I	11	
9	Muamba Nozi Richard	DRC	II	36	
10	Trinity Investment Group	DRC Uganda	I	26	
11	Victoria Group	DRC Uganda	I	29	
12	Gatete Edward	Rwanda	II	16	
13	Great Lakes General Trade	Rwanda	I	12	
14	Great Lakes Metals	Rwanda	I	13	
15	Rwanda Metals	Rwanda	I	20	
16	Kabanda Emmanuel	Rwanda	II	18	
17	Kabarebe James	Rwanda	II	19	
18	Munyuza Dan	Rwanda	II	37	
19	Nziza Jack	Rwanda	II	40	
20	Tristar	Rwanda	I	28	
21	Huber Chris Finmining Raremet Ltd	Switzerland/ South Africa St Kitts St Kitts	n/a III III	n/a 37 67	
22	Engola Sam	Uganda	II	14	
23	Mayombo Nobel	Uganda	II	32	
24	Otafire Kahinda	Uganda	II	43	
25	Hambros Bank	UK	body	53	
26	COMIEX-Congo	DRC	I	5	

No.	Name	Country	Annex	Annex No.	Remarks
27	COSLEG	DRC Zimbabwe	I	8	
28	OSLEG	Zimbabwe	I III	17 64	
29	Moyo Mike	Zimbabwe	II	34	
30	Chemie Pharmacie Holland	Netherlands	III	24	
31	Dara Forest	Thailand	III	27	
32	Akhimanza		II	8	
33	Khanafer Nahim		II	26	

Annex II

Countries visited and representatives of Governments, organizations and private entities interviewed

1. The Panel wishes to express its deep appreciation to the Government officials, diplomats, United Nations agencies, donor institutions, non-governmental organizations, civil society groups, journalists, commercial operators and others with whom it met and who have assisted in making possible the present report.

2. The Panel also wishes to extend special thanks to United Nations Offices in Nairobi and MONUC for their valuable assistance and support.

CENTRAL AFRICAN REPUBLIC

Government officials and governmental institutions

Ministry of Mines

BECDOR

State representatives

Embassy of the Democratic Republic of Congo

Embassy of France

International organizations

UNDP

BONUCA

Others

Independent Diamond Valuator

DDC Bureau d'Achat

Sopicad Bureau d'Achat

DEMOCRATIC REPUBLIC OF CONGO

Government officials and governmental institutions

Vice President, Azarias Ruberwa

The Attorney General of the Republic (former and current)

Governor of the Central Bank of the DRC

Commissaire General Adjoint charge des affaires de la MONUC

Centre d'Evaluation d'Expertise et de Certification (CEEC)

State representatives

Ambassador of the United States

Embassy of Belgium

Embassy of France

Embassy of the United Kingdom of Great Britain and Northern Ireland

EU Special Envoy for the Great Lakes Region

International organizations

MONUC

UNDP

EU

OXFAM

UNICEF

World Bank

IMF

OCHA

ILO

ECHO

Save the Children

Civil Society Working Group on Illegal Exploitation (ECC)

Labor Optimus

Others

Religious order, The White Fathers

Uhuru Airlines

Sotexki

Orgaman company

Fédération des Entreprises du Congo

FRANCE

Government officials and governmental institutions

Ministry of Foreign Affairs

State representatives

Embassy of Belgium

Belgian Ambassador to the OECD

Belgian Counsellor to the OECD

International organizations

OECD

Individuals

Anthony Marinus

Companies

Amalgamated Metals Corporation

American Mineral Fields

Avient Ltd.

Cabot Corporation

Specialty Metals

Trademet

KENYA

State representatives

Vice Minister of Foreign Affairs and International Cooperation of the DRC

Canadian High Commissioner

British High Commission

Ambassador of Belgium

Ambassador of the DRC

Embassy of China

Embassy of Finland

Ambassador of Norway to the DRC

International organizations

Chief of the United Nations Office at Nairobi

SRSG for the Great Lakes Region

OCHA

Companies

A & M Minerals and Metals

A.H. Knight

Afrimex

Ahmad Diamond Corporation

Alex Stewart (Assayers) Limited

Anglo American

Anglovaal

Ashanti Goldfields Company Ltd.

Asa Diam

Banro Resources Corporation

Banque Belgolaise

Banque Bruxelles Lambert

Barclays Bank

Carson Products

Congo Holding Development Company

Cogecom

De Beers

Diagem

Eagles Wings Resources

First Quantum Minerals

Groupe George Forrest

H.C. Starck

Jewel Impex

Karl Heinz Albers

Kinross Gold Corporation

Komal Gems

Kumba Resources

Nami Gems

OM Group Finland Oy

ORYX Natural Resources

Rwanda Allied Partners

Saracen

Sierra Gem Diamonds

Tenke Mining Corporation

Tremalt Ltd. and Kababankola Mining Company

Triple A Diamonds

Umicore / Sogem

Others

International Crisis Group

Security Research and Information Centre

Crown Agents

East African Standard

THE NETHERLANDS

International organizations

Chief Prosecutor of the ICC

RWANDA

Government officials

Minister of Foreign Affairs

Deputy Prosecutor General

Special Envoy of President Kagame for the Great Lakes

State representatives

Ambassador of France

Ambassador of Belgium

Ambassador of United Kingdom of Great Britain and Northern Ireland Ambassador of United States

International organizations

Head of MONUC Office in Rwanda

Head of UNDP

World Bank

Human Rights Watch

UGANDA

Non-governmental organizations

Action Aid

Amnesty International

FM Monitoring

Uganda Debt Network

International organizations

IMF

UNDP

World Bank

Companies

Ashanti Goldfields

Heritage Oil

Others

Monitor FM

USA

State representatives

Permanent Representatives of Belgium, Canada, the DRC, Rwanda and Uganda to the United Nations and Security Council members

Governmental institution

US Geological Survey

International organizations

World Bank Group

IMF

Others

Search for Common Ground